(30)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ.

Writ Petition No. 996 OF 2002

PETITIONERS

1. Sahdev, S/o. Khabhu, aged about 30 years.
2. Rama S/o. Shivmurat, aged about 22 years.
3. Prem Lal, S/o. Balli, aged about 60 years.
4. Hira Sai, S/o. Raghuvir, aged about 26 years.
5. Son Kunwer, S/o. Ranglal, aged about 65 years
6. Sadhu Charan S/o. Katan Sai, aged about 40 years.
7. Ravtiraman S/o. Sudhanram, aged about 19 years.
8. Vinod, S/o. Dharmdeo, aged about 30 years.
9. Narayan, S/o. Somar Sai, aged about 35 years.
10. Ramesh Kumar S/o. Rajdeo, aged about 21 years.
11. Mohar Sai S/o. Raghunath, aged about 37 years
12. Ram Prasad S/o. Premlal, aged about 40 years.
13. Ram Singh S/o. Ghagar Sai, aged about 30 years.
14. Bhola S/o Ram Jatan, aged about 70 years.
15. Hiralal S/o. Baijnath aged about 28 years.
16. Budhni Baiva S/o. Jaikaran, aged about 65 years.
17. Akhilesh S/o. Somnath, aged about 26 years.
18. Ramakant S/o. Baratu, aged about 40 years.
19. Bhuvneshwar S/oPannalal, aged about 23 years.
20. Kamalkant S/o. Kailash, aged about 27 years.
21. Gambhir Sai S/o. Mohar Sai, aged about 45 years.
22. Dhanukdhari S/o. Jaita, aged about 80

years.

23. Raj Kumar S/o. Hari Prasad, aged about 30 years.
24. Narayan S/o. Baldeo, aged about 20 years.
25. Rakesh Kumar S/o. Saheblal, aged about 36 years.
26. Arvind S/o Brijnath, aged about 22 years.
27. Ramsingh S/o. Jhagar Sai, aged about 23 years.
28. Shyama Devi w/o. Lalsingh, aged about 60 years.
29. Ravindra Kumar S/o. Shivfate, aged about 24 years.
30. Ramesh Kumar S/o. Umashankar, aged about 23 years.
31. Lal Singh S/o. Ramcharan, aged about 58 years.
32. Munni Lal S/o. Maghi Ram, aged about 27 years.
33. Raj Kumar S/o. Musafir, aged about 46 years.
34. Shivadhar S/o. Bhaiyalal, aged about 28 years.
35. Rama Shankar S/o. Dadhiwal, aged about 23 years.
36. Sandeep Kaul S/o. R.K. Kaul, aged about 30 years.
37. Indra Ram S/o. Rambriksha, aged about 22 years.
38. Kusum Singh S/o. Maya Ram, aged about 28 years.
39. Awadhesh S/o. Pratap Singh, aged about 29 years.
40. Ashok Kumar S/o. Shyam Bihari, aged about 24 years.
41. Arvind S/o Rajdeo, aged about 20 years.
42. Gandi Bai, Wd/o. Sukhnath, aged about 60 years.
43. Baldeo S/o. Hiravan, aged about 85 years.
44. Peeran Bibi, Aged about 72 years, Widow of Late Nadhir Khan, Resident of Khursia, Tah. Baikunthpur, Distt. Korea (Chhattisgarh)
45 Vinod Kumar S/o Shyam Lal, aged about 22 years.
46 Ganesh Prasad S/o. Amarnath, aged about 25 years.
47. Birbal S/o Subradh, aged about 55 years.

48. Baldau S/o Tejram, aged about 40 years.
49. Chandra Lekha S/o Antu Das, aged about 56 years.
50. Shiv Singh S/o Chandan Singh, aged about 30 years.
51. Ishwer Chandra Pandey S/o Briksha Kishore Pandey, aged about 22 years.
52. Lalita Kumari D/o Ram Prasad, aged about 18 years.
53. Bhanmati Wd/o Pran Sai, aged about 57 years.
54. Dayaram S/o Nanku Ram, aged about 50 years.
55. Prem Singh S/o Daduram, aged about 37 years.
56. Bhaiya Ram S/o Ratan Sai, aged about 35 years.
57. Amar Sai S/o Raghunath, aged about 38 years.
58. Vinod S/o Ramawtar, aged about 24 years.

All Residents of Village-Khurasia, Chirmiri, Baikunthpur Distt. Korea (C.G.)

Vs.

RESPONDENTS

1. South Eastern Coal Fields Ltd., Through C.M.D. Seepat Road, Bilaspur.
2. Chief General Manager, Chirmiri Area, S.E.C.L. Baikunthpur, District – Korea.
3. Collector, Korea
4. Sub Divisional Officer, Baikunthpur, District – Korea.

Present : Shri Vinay Pandey, learned counsel for the petitioners.
Shri H.B. Agrawal, learned senior counsel with Shri Pankaj Agrawal, learned counsel for respondents 1 and 2.
Shri Sanjay S. Agrawal, learned G.A. for respondents 3 and 4.

ORAL ORDER
(Passed on 26th July 2006)

As many as 58 residents of Khurasia village Chirimiri Block Baikunthpur, District Korea have filed this writ petition under Article 226 of the Constitution complaining that due to underground mining carried out by the respondent-SECL, the lands owned by the petitioners have become

useless and they are not fit for cultivation. They complain that though this fact was brought to the notice of the authorities of S.E.C.L. as well as the Collector of Korea and Sub Divisional Officer, Baikunthpur, no relief was granted to them. In the circumstance, the petitioners have prayed for a direction to the authorities of S.E.C.L. to pay compensation to the damage caused to their lands and also a direction to S.E.C.L. to provide employment to a member of each of the families of the petitioners. Opposing the writ petition, the S.E.C.L. has filed return. In the return, all material allegations made in the writ petition are denied. The respondents 3 and 4 have not filed any return.

(2) Heard learned counsel for the parties. Learned counsel for the petitioners would contend that the allegation that the underground mining carried out by the S.E.C.L. authorities had damaged the lands of the petitioners, is amply established by the report of the Land Acquisition Officer, a copy of which is produced as Annexure-P/5 at page 137 of the material papers. It is true that if one goes by what is stated in the report of the Land Acquisition Officer, damage is caused to the lands of the petitioners, but, the untested report of the Land Acquisition Officer could not be taken to be true to grant substantive relief to the petitioner, particularly, in the context of the total denial of the allegations by the SECL authorities in their return. The allegations made by the petitioners have to be proved satisfactorily by adducing substantive legal evidence before the jurisdictional civil Court and also the actual damage caused to the petitioners on the alleged account of underground mining carried on by the SECL authorities. The dispute brought before this Court cannot satisfactorily be resolved in a summary proceeding under Article 226. In

order to resolve the dispute, it becomes imperative for the Court to permit the parties to lead evidence and tender them to cross-examine by each other. In that view of the matter, without expressing any opinion on the merits of the matter, I dismiss this writ petition. No costs. However, this order shall not come in the way of the petitioners, if they so advised, to workout their legal remedies by instituting a suit in a jurisdictional civil Court and that right is reserved to the petitioners.

Sd/-
Chief Justice